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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 11

Application Number: 09/385,725
Filing Date: August 30, 1999
Appellant(s): EIBLING ET AL.

Joseph B Ryan
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed October 08, 2002.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

Appellant's brief includes a statement that claims do not stand or fall together.

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

US 5,715,526

Weaver, Jr. et al.

Feb-1998

(10) New Prior Art

No new prior art has been applied in this examiner's answer.

(11) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

3. Claims 1-22 are rejected under 35 U.S.C. 102(b) as being anticipated by *Weaver, Jr. et al.* (5,715,526).

As per claims 1-2, 8-9, and 21-22, *Weaver, Jr. et al.* disclosed a method for determining a power level of a forward-link signal in a wireless system wherein determining the power level of the signal for a measurement interval using the power indicative signal characteristics, the measurement interval having a duration smaller than or equal to the time period in which at least one power-indicative signal characteristic can change (fig. 2-5, col. 9/ln. 29-col. 12/ln. 5). *Weaver, Jr. et al.* further disclosed each channel element processors (fig. 3/no. 36A-36I) calculates respectively a filtered expected power, measurement interval is usually a full rate frame, and input to the base station (fig. 3/no. 37) which generates an indication of the desire output power (col. 9/ln. 29-col. 10/ln.27).

As per claims 3-7 and 12-16, *Weaver, Jr. et al.* further disclosed the power indicative signal characteristics comprise an information rate, a gain, control information, call is in set up or part of an establish call, or soft-handoff (fig. 4,7, col. 15/ln. 27-62).

As per claim 10, *Weaver, Jr. et al.* further disclosed a channel unit controller (fig. 3/no. 36A-36I) obtaining information rate and gain of the signal, multiplying the information rate and gain to obtain the power level, forward the power level to a master controller, and the master controller (fig. 3/no. 37) summing the power level of each signal (fig. 4, col. 9/ln. 29-col. 12/ln. 5).

As per claim 11, *Weaver, Jr. et al.* further disclosed a master controller (fig. 3/no. 37) obtaining information rate and gain of the signal, multiplying the information rate and gain to obtain the power level (col. 9/ln. 29-col. 12/ln. 5).

As per claims 17-18, *Weaver, Jr. et al.* further disclosed all the signals in a sector of a cell are amplified by an amplifier (fig. 6/no. 76) of the base station (col. 2/ln. 21-35 and col. 8/ln. 1-3).

As per claims 19-20, *Weaver, Jr. et al.* further disclosed signal set comprises traffic signals and control signal (col. 10/ln. 5-16).

(12) Response to argument

With respect to appellant's remarks filed October 08, 2002, the responses are as follows:

The appellant states, with regard to claims 1 and 8, "The prior art fails to disclose or suggest the measurement interval having a duration smaller or equal to the time period in which at least one power-indicative signal characteristic can change". As stated in the specification, "For example, the information rate of the traffic signal is one of the power-indicative signal characteristics, and the information rate can change once per frame; therefore, the measurement interval can be one frame, or one or several power control groups, where a power control group is 1/16 of a frame. The measurement interval can be of a fixed length or of a variable length (see specification, pg. 9/ln. 25-29)". Weaver (US patent 5,715,526) disclosed such information rate of the traffic channel can change once per frame and that the measurement interval can be a frame (see col. 9/ln. 29-44, col. 10/ln. 23-27, wherein the traffic channel call may switch between one of the four rates, full/half/quarter/eighth rate, on a frame by frame basis (power-indicative signal characteristic as claimed). For example, Weaver teaches that

samples can be measured from traffic channels, pilot channels, paging channels, and synchronization channels (col. 9/ln. 33-35) and that each channel has different associated power (i.e. power level of traffic channel (see col. 9/ln. 39-42) and power level of pilot channel (see col. 10/ln. 28-29).

The appellant states, with regard to claims 2 and 9, "The prior art fails to disclose or suggest the measurement interval having a duration smaller or equal to the time period in which any of power-indicative signal characteristic can change". As stated in the specification, "For example, the information rate of the traffic signal is one of the power-indicative signal characteristics, and the information rate can change once per frame; therefore, the measurement interval can be one frame, or one or several power control groups, where a power control group is 1/16 of a frame. The measurement interval can be of a fixed length or of a variable length (see specification, pg. 9/ln. 25-29)". Weaver (US patent 5,715,526) disclosed such information rate of the traffic channel can change once per frame and that the measurement interval can be a frame (see col. 9/ln. 29-44, col. 10/ln. 23-27, wherein the traffic channel call may switch between one of the four rates, full/half/quarter/eighth rate, on a frame by frame basis (power-indicative signal characteristic as claimed). For example, Weaver teaches that samples can be measured from traffic channels, pilot channels, paging channels, and synchronization channels (col. 9/ln. 33-35) and that each channel has different associated power (i.e. power level of traffic channel (see col. 9/ln. 39-42) and power level of pilot channel (see col. 10/ln. 28-29).

The appellant states, with regard to claims 5 and 14, "The prior art fails to disclose or suggest that a signal contains control information may be used as a power-indicative signal characteristic". Weaver disclosed such overhead signals contain control information and that such information can be use as power-indicative characteristic (see col. 9/ln. 29-44). For example, Weaver teaches that samples can be measured from traffic channels, pilot channels, paging channels, and synchronization channels (col. 9/ln. 33-35) and that each channel has different associated power (i.e. power level of traffic channel (see col. 9/ln. 39-42) and power level of pilot channel (see col. 10/ln. 28-29).

The appellant states, with regard to claims 6-7 and 15-16, "The prior art fails to disclose or suggest that a call is in set up/soft handoff may be used as a power-indicative signal characteristic". Weaver does teach soft handoff (see col. 15/ln. 29-32, col. 15/ln. 44-62). It should be noted that call set up is a generic terminology of handoff, since the mobile terminal disconnect a RF link from base station 81 and set up a RF link for establishing a new communication with base station 82. Therefore, Weaver does teach call set up and handoff.

The appellant states, with regard to claim 21, "The prior art fails to disclose or suggest that the measurement interval comprise a frame". The examiner again refers to Weaver (see col. 10/ln. 22-25). More specifically, Weaver teaches that " thus in calculation the expected power the ratio of the number of power control symbols to the total number of symbols within a frame". Therefore, Weaver clearly teaches the measurement interval is within a frame.

The appellant states, with regard to claim 22, "The prior art fails to disclose or suggest that the measurement interval comprises a power control group, i.e. 1/16 of a frame". Weaver teaches disclosed the rates are full rate, half rate, quarter rate, eighth rate (see col. 9/ln. 38-43, for example 1/8 rate is transmitted at 1/8 the power of the corresponding full rate).

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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